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new cause, produces an event, and without which the event would not have occurred.

[Ed. Note.—For other cases, see Negligence, Cent. Dig. § 71; Dec. Dig. § 58.\* 10 Va.-W. Va. Enc. Dig. 372; 14 Va.-W. Va. Enc. Dig. 766; 15 Va.-W. Va. Enc. Dig. 722.]

**17. Trial (§ 252\*)—Instructions—Evidence to Support.**—Where, in a car repairer's action for injuries from the negligent moving of cars, the undisputed evidence showed that plaintiff went under the car in the proper discharge of his duties and in obedience to the express command of the car inspector whose orders he had been specifically directed to obey, an instruction, that he could not recover if he could have avoided the accident by waiting until the engine was uncoupled, was properly refused.

[Ed. Note.—For other cases, see Trial, Cent. Dig. §§ 505-596-612; Dec. Dig. § 252.\* 7 Va.-W. Va. Enc. Dig. 718; 14 Va.-W. Va. Enc. Dig. 563; 15 Va.-W. Va. Enc. Dig. 513.]

**18. Trial (§ 260\*)—Refusal of Instructions Covered.**—A requested instruction substantially covered by one given is properly refused.

[Ed. Note.—For other cases, see Trial, Cent. Dig. §§ 651-659; Dec. Dig. § 260.\* 7 Va.-W. Va. Enc. Dig. 742; 14 Va.-W. Va. Enc. Dig. 565; 15 Va.-W. Va. Enc. Dig. 521.]

Error to Circuit Court of City of Clifton Forge.

Action by D. H. Swartz against the Chesapeake & Ohio Railway Company. From a judgment for plaintiff, defendant brings error. Affirmed.

*J. M. Perry*, of Staunton, for plaintiff in error.

*W. E. Allen*, of Mineral Wells, and *Chas. & Duncan Curry*, of Staunton, for defendant in error.

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LEWIS *v.* COMMONWEALTH.

Jan. 15, 1914.

[80 S. E. 575.]

**Gaming (§ 98\*)—Criminal Prosecutions—Evidence.**—Under Code 1904, § 3815, forbidding the keeping or exhibiting of a gaming table, commonly called A B C or E O table, faro bank, wheel of fortune, keno table, or table of the like kind under any denomination, whether the game or table be played with cards, dice, or otherwise, where the warrant under which accused was tried charged the keeping and exhibiting of a crap table in the nature of an A B C or E O table, proof was necessary that the game of crap was of a like kind with those enumerated in the warrant, and hence a conviction could not

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\*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.

be sustained where there was no proof as to the nature and character of an A B C or E O table, or as to how those games were played or exhibited.

[Ed. Note.—For other cases, see Gaming, Cent. Dig. §§ 291-297; Dec. Dig. § 98\* 6 Va.-W. Va. Enc. Dig. 701; 14 Va.-W. Va. Enc. Dig. 496; 15 Va.-W. Va. Enc. Dig. 445.]

Error to Circuit Court, Norfolk County.

John T. Lewis was convicted of an offense, and he brings error. Reversed and remanded.

*N. T. Green*, of Norfolk, for plaintiff in error.

*The Attorney General*, for the Commonwealth.

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HADEN *v.* FALLS.

Jan. 15, 1914.

[80 S. E. 576.]

**1. Husband and Wife (15\*)—Conveyance by Husband—Joinder by Wife.**—A wife cannot be compelled to unite with her husband in conveying land which he has contracted to sell.

[Ed. Note.—For other cases, see Husband and Wife, Cent. Dig. §§ 13, 16, 37, 84, 90-99, 283; Dec. Dig. § 15.\* 7 Va.-W. Va. Enc. Dig. 199.]

**2. Specific Performance (§ 14\*)—Failure of Title.**—A contract to sell land made by a husband alone will not be specifically enforced at the suit of the purchaser, where, because of the wife's refusal to join in the conveyance, he demanded an abatement of the price or an indemnity to protect himself from her claim for dower, etc.

[Ed. Note.—For other cases, see Specific Performance, Cent. Dig. §§ 33, 41; Dec. Dig. § 14.\* 12 Va.-W. Va. Enc. Dig. 607; 14 Va.-W. Va. Enc. Dig. 941.]

**3. Specific Performance (§ 130\*)—Denial of Relief—Answer.**—That defendants, in a suit to compel performance of a husband's sole agreement to convey land, did not object by answer or otherwise to the specific enforcement of the contract on the ground that the vendor was married would not prevent the court from denying the relief on that ground, where the wife refused to join in the conveyance, and complainant, the purchaser, demanded an abatement of the purchase price or indemnity because of her refusal to join.

[Ed. Note.—For other cases, see Specific Performance, Cent. Dig. §§ 424, 425; Dec. Dig. § 130.\* 12 Va.-W. Va. Enc. Dig. 677; 14 Va.-W. Va. Enc. Dig. 944.]

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\*For other cases see same topic and section NUMBER in Dec. Dig. & Am. Dig. Key No. Series & Rep'r Indexes.